United Nations S/AC.37/2002/33

Security Council

Distr.: General
19 April 2002
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 16 April 2002 from the Permanent Representative of Guatemala to the United Nations addressed to the Chairman of the Committee

In accordance with paragraph 6 of resolution 1390 (2002), I am pleased to submit herewith the report prepared by the Government of Guatemala (see annex).

Please do not hesitate to communicate with me, should you require any clarification or wish to make any comments.

(*Signed*) Gert **Rosenthal**
Permanent Representative

02-34643 (E) 300402 010502

Annex to the letter dated 16 April 2002 from the Permanent Representative of Guatemala to the United Nations addressed to the Chairman of the Committee

Report on the steps taken by the Government of the Republic of Guatemala to implement Security Council resolution 1390 (2002)

Introduction

The Government of the Republic of Guatemala is submitting this report pursuant to paragraph 6 of Security Council resolution 1390 (2002), which requests all States to report to the Committee on the steps they have taken to implement the resolution.

Guatemala has legislation to suppress terrorist activities in general and other related acts; this legislation could be used against Usama bin Laden and his organization if necessary, and also against any other specific terrorist organization or group.

The information in this document describes the legislative and administrative measures that are consistent with resolution 1390 (2002), within the framework of the individual, civil and political safeguards inherent to a democratic society.

Paragraph 2. Decides that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

All legislative and/or administrative measures they have taken to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of resolution 1390 (2002), including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction and to ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

If the authorities of a State have identified and frozen funds and other financial assets or economic resources of the individuals, groups, undertakings and entities as referred to in the list, they should provide the Committee with relevant information, such as types of assets frozen, account numbers and monetary value of the assets frozen.

Pursuant to article 133 of the Constitution, the Superintendency of Banks is responsible for supervising and inspecting banks, credit institutions, financial companies, surety entities and other bodies stipulated in the legislation.

By virtue of this mandate and on the basis of the lists issued by the Security Council, the Superintendency of Banks has conducted an investigation to establish whether the individuals or entities that appear on the lists have any relationship or business with the national financial system. As a result of these investigations, it has been determined that these individuals have not conducted operations or held financial assets within Guatemala's financial system.

If the existence of assets or resources of any individuals connected with the lists issued by the Security Council is detected in our financial system in the future, Guatemala has a legal framework that would allow it to freeze such funds.

Regular legislation

Pursuant to article 278 of the Code of Criminal Procedure and article 530 of the Code of Civil and Mercantile Procedure, at the request of the Office of the Public Prosecutor, a competent judge may order an urgent precautionary measure for the seizure of property and other resources, including funds deposited in bank accounts. Such measures may be applied if it is discovered that funds deposited in banks of the national system are associated with persons who collaborate with terrorism; the action produces the same result as freezing assets, because once it takes effect, the holder of the account cannot use the resources.

In the specific instance of cases related to the laundering of money or other assets, article 12 of the Act Against the Laundering of Money or Other Assets, Legislative Decree 67-2001, establishes that, in case of *periculum in mora*, the Office of the Public Prosecutor may order the confiscation, seizure or freezing of property, documents and bank accounts, which must be approved immediately by the competent judge or court.

In addition, article 13 of this act establishes a system for the Office of the Public Prosecutor to have custody of the confiscated property.

International legislation

As a member of the United Nations, of the Organization of American States and of many other regional and international organizations and forums, Guatemala is a signatory to a large number of bilateral and multilateral treaties, conventions and agreements which, once they have been adopted and ratified by Guatemala, are incorporated into domestic law and have the force of law. In this respect, we should mention:

- International Convention for the Suppression of Financing of Terrorism

The instrument of ratification was deposited with the Secretary-General of the United Nations on 12 February 2002.

Article 8 establishes the measures that States Parties must take for the control, identification, detection, freezing and forfeiture of funds and other financial assets related to acts of terrorism.

(b) **Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified.**

All measures they have taken to prevent the entry into or the transit through their territories of the individuals as referred to in the list mentioned in paragraph 2 of resolution 1390 (2002).

According to the Immigration Act, Legislative Decree 95-98, the Department for Immigration is responsible for ensuring that foreigners who stay in Guatemalan territory do so in accordance with the provisions of this act.

This Department has conducted an investigation in order to establish whether the individuals whose names appear on the list issued by the Security Council have entered or passed in transit through Guatemalan territory and it has been determined that, to date, none of those individuals has entered or passed in transit through Guatemala.

Also, controls at the legally authorized border points have been heightened in order to prevent the entry into or transit through Guatemala of the individuals appearing on the lists. To this end, the following administrative and operational measures, among others, have been taken:

- The Department for Immigration is consulted about any request for a visa, and checks it against the Security Council lists.
- A permanent link to the Internet has been established in order to obtain information on individuals who plan travel to Guatemala before they leave their countries of origin.
- A satellite link is being set up.
- The control of private flights has been heightened.
- There is close coordination on immigration policies with the Ministry of Foreign Affairs, through the Department of Consular Affairs.

Administrative legislation

- Immigration Act, Legislative Decree 95-98

This Act establishes that foreigners who violate the domestic laws of Guatemala by committing an offence during their stay, when permitting them to stay in Guatemala is not in the national interest, as determined by the Department for Immigration, will be punished by expulsion to their countries of origin (Immigration Act, art. 114).

The Department may prohibit or terminate the stay of foreigners for reasons of public order, national interest or State security.

The act provides that immigration controls include the organization and coordination of services relating to nationals' and foreigners' entry into and departure from the territory of the Republic through verification of their documents and consideration of problems that might be caused by such travel. It also includes

monitoring of compliance with the legislation regarding foreigners' stay and activities in Guatemala (Immigration Act, art. 87).

It is unlawful for foreigners to remain in Guatemala if any of the following situations apply: (1) entry into the country at a point not authorized for the purpose; (2) entry without passing through immigration control; (3) failure to comply with the regulations governing entry or stay under the Immigration Act; or (4) continued presence in the country after expiry of the authorized time period (Immigration Act, art. 89).

Criminal law

• Penal Code, Legislative Decree 17-73

The Guatemalan Penal Code establishes the following offences, which are penalized by prison sentences ranging from one to 50 years and additional financial penalties:

(a) Interference: among the "Offences which compromise the foreign affairs of the State", article 371 defines the offence of interference, stating: "Anyone who, in Guatemalan territory, carries out activities designed to modify the political system of another State through violence shall be sentenced to one to three years' imprisonment and a fine".

(b) Hostile acts: article 372 of the Penal Code defines the offence of hostile acts as: "Anyone who, without the approval of the Guatemalan Government, commits hostile acts against another State which might give rise to a declaration of war against Guatemala shall be sentenced to two to eight years' imprisonment. Anyone who, under the same circumstances, exposes Guatemalans to potential humiliation or reprisals against their person or property or alters the friendly relations between the Government of Guatemala and a foreign Government shall also be subject to such a sentence. The sentence shall be doubled if the said hostile acts result in war."

(c) Offences of international scope: the Penal Code (Book II, Title XI, Chapter IV) establishes "Offences of international scope", including the following which are linked to terrorism: genocide (art. 376), incitement to genocide (art. 377), death of a foreign head of state (art. 379) and human rights violations (art. 378), which carry heavy sentences of between 5 and 50 years' imprisonment. In the punishment of such offences, the international legal principle of reciprocity shall prevail.

Special legislation on extradition

Guatemala recognizes the right of asylum which it grants in accordance with international practice. Extradition is governed by the provisions of international treaties (Constitution of the Republic of Guatemala, art. 27), among which are those relating to:

(a) Extradition for acts of terrorism taking the form of crimes against persons and related extortion.

(b) Extradition for crimes taking the form of terrorist bombings.

(c) Extradition for crimes taking the form of the financing of terrorism.

(d) Extradition for crimes against the safety of civil aviation.

Principle of reciprocity: extradition may be attempted or granted only for common crimes. In cases of extradition under international treaties, it may be granted only if reciprocity exists (Guatemalan Penal Code, art. 8, Legislative Decree 17-73).

(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

All measures they have taken to prevent the direct or indirect supply, sale and transfer to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

The Weapons and Ammunition Act, Legislative Decree 39-89, establishes that the Department of Arms and Munitions Control (DECAM), attached to the Ministry of Defence, is the body responsible for authorizing, registering and controlling the import, manufacture, purchase and sale, donation, export, storage, customs clearance, transport and bearing of weapons and ammunition.

The steps taken to comply with resolution 1390 (2002) include the transmittal of the Security Council lists related to international terrorism to the Ministry of Defence and the Ministry of the Interior; it has been verified that, to date, no weapons or ammunition have been supplied, sold or transferred either directly or indirectly to any persons on those lists. Each sales transaction for weapons and ammunition is checked against the list issued by the Security Council.

In Guatemala, defensive weapons and ammunition are sold by the various private companies that deal in weapons, and these companies are authorized, controlled and monitored by the Department of Arms and Munitions Control of the Ministry of Defence.

Offensive weapons, and also vehicles, equipment, materiel and spare parts are bought, through the Ministry of Defence, from foreign companies or armies, for the exclusive use of the Guatemalan Army.

Offensive weapons for the civilian security forces are allowed, once they have been approved by the General Staff of the Armed Forces.

In special cases when individuals need to possess and bear offensive weapons for reasons of security, permission is granted, once clearance has been given by the General Staff of the Armed Forces.

The Ministry of Defence has a plant that produces ammunition exclusively for rifles, which are the Army's basic weapon. It also has a military industry that produces uniforms and boots for the entire Army and which sometimes supplies Central American countries, upon request.

Technical advice, assistance or training related to military activities is only offered to army personnel at the training centres for recruits in the various military commands, to individuals in the country's reserve forces, and at the basic and advanced professional training centres for Guatemalan army officers and, in some cases, officers from other countries, under an exchange programme with friendly armies, all of which are under the control and responsibility of the Ministry of Defence.

Also the Weapons and Ammunition Act contains general prohibitions for individuals to manufacture, import, export, possess and bear offensive firearms, blades, explosives, chemical weapons, biological weapons, atomic weapons, mines, experimental weapons, sound reducers, suppressors or silencers and the appropriate ammunition to be used with them, and also devices that allow a weapon to be fired while hidden such as attaché cases, pencil cases or books, ammunition that is exclusively for military use and ammunition that has been altered or poisoned with natural chemical products.

Administrative legislation

- Weapons and Ammunition Act, Legislative Decree 39-89.
- Decree-Law 123-85 "Government Monopoly Act".

Criminal law

Article 245 of the Guatemalan Constitution stipulates that "The organization and operation of armed groups not regulated by the laws and regulations of the Republic are a punishable offence". Pursuant to this constitutional provision, the Congress of the Republic has enacted the following legislation:

- Weapons and Ammunition Act, Legislative Decree 39-89

The Weapons and Ammunition Act establishes the following offences, among others: (a) Illegal import of weapons (art. 83); (b) Illegal import of ammunition for firearms (art. 84); (c) Illegal manufacture of firearms (art. 85); illegal manufacture of ammunition for firearms (art. 86); (d) illegal export of firearms (art. 89); (e) illegal possession of offensive weapons (art. 93); illegal possession and stockpiling of offensive weapons, explosives, chemical, biological and atomic weapons, mines and experimental weapons (art. 95); construction of clandestine shooting ranges (art. 99). These offences are penalized by six months to six years' imprisonment and other additional penalties.

- Penal Code, Legislative Decree 17-73

The Guatemalan Penal Code establishes the following offences, which are penalized by prison sentences ranging from six months to 15 years and additional financial penalties.

(a) **Illegal armed groups**: Article 398 of the Penal Code defines the offence of "Illegal armed groups", as follows: "Persons who organize, form or direct armed groups or militias other than those of the State shall be sentenced to 3 to 10 years' imprisonment".

(b) **Militancy in illegal groups**: Article 399 of the Penal Code defines the offence of "Militancy in illegal groups", as follows: "Any person who is a member

of the illegal groups referred to in the preceding article (art. 398) shall be sentenced to two to eight years' imprisonment".

(c) **Possessing and bearing firearms**: Article 400 of the Penal Code defines the offence of "Possessing and bearing firearms" by providing that: "The possession and bearing of firearms or weapons of war, or of ammunition or accessories for them, the use of which is reserved exclusively for the Army of the Republic, shall be penalized by six months to three years' imprisonment and a fine of from 50 to 1,000 quetzales".

(d) **Stockpiling arms or ammunition**: Article 401 of the Penal Code defines the offence of "Stockpiling arms or ammunition", as follows: "Any person who possesses or establishes a stock of arms, ammunition or other military supplies, the use of which is reserved exclusively for the Army of the Republic, shall be sentenced to two to six years' imprisonment and a fine of from 200 to 2,000 quetzales. Furthermore, pursuant to article 402 of the Penal Code on "Unauthorized stockpiles", any person who illegally possesses or establishes a stock of arms or ammunition, which is not for the exclusive use of the Army, shall be sentenced to one to two years' imprisonment and a fine of 100 to 1,000 quetzales. For the purposes of this article, a collection of five or more weapons, even when they are dismantled, is considered to be a stockpile of arms that are not for war.

(e) **Trafficking in explosives**: Article 404 of the Penal Code defines the offence of "Trafficking in explosives", as follows: "Any person who illegally has in his possession, manufactures, transports, traffics in or supplies in any form explosive, flammable or incendiary or asphyxiating substances and instruments or devices for causing them to explode shall be sentenced to 10 to 15 years' imprisonment, and the same penalty shall be imposed on any person who, legally being in possession of such substances or instruments, ships or supplies them, in the knowledge that they are intended to be used to attempt to execute or to execute any of the offences included in this title".

International legislation

The Republic of Guatemala is a party to the international conventions that prohibit and limit the supply and use of weapons and related materiel for terrorist purposes:

Conventions to which Guatemala is a party:

- International Convention for the Suppression of Terrorist Bombings
- Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof

International conventions undergoing the necessary formalities:

- By Decree No. 14-2001, the Congress of the Republic of Guatemala adopted the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. It is pending ratification.

It is important to note that the principle of the incorporation of international law into domestic law is in effect in our legislation; accordingly, it is within the

competence of the legislature to adopt, before ratifying them, international treaties, conventions and arrangements calling for a commitment on the part of Guatemala, and, once the legal procedures have been completed, they form part of domestic law (arts. 171, para. 1, and 172 of the Guatemalan Constitution).

Paragraph 8. Urges all States to take immediate steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating on their territory, to prevent and punish violations of the measures referred to in paragraph 2 of this resolution, and to inform the Committee of the adoption of such measures, and invites States to report the results of all related investigations or enforcement actions to the Committee unless to do so would compromise the investigation or enforcement actions.

The Committee would in addition welcome the submission of information regarding implementation by States of paragraph 8 of resolution 1390 (2002) which invites States to report on investigations and enforcement actions related to States' efforts to enforce and strengthen the measures imposed under domestic laws or regulations to prevent and punish violations of the measures referred to in paragraph 2 of resolution 1390 (2002), unless to do so would compromise the investigation and enforcement actions.

States may include in their reports any additional relevant information. They may also include general observations on the implementation of the resolution, and any problems encountered.

As a Member State of the United Nations, Guatemala recognizes the binding nature of resolution 1390 (2002), and specifically the measures contained in paragraph 2. The legal system and competent organs and authorities described above have the legal means to prevent and punish non-fulfilment of the measures indicated in paragraph 2 of the resolution.

Among the measures taken by Guatemala, the "Office of the Special Prosecutor against Terrorism", attached to the Office of the Public Prosecutor was established through Decision 01-2002 in January 2002; its specific function is to monitor the investigation of crimes linked to terrorism.

As regards permanent preventive measures, the new consolidated list issued by the Security Council pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002) has been incorporated into the control systems of the principal public agencies dealing with the issue of terrorism.

Up until now, no specific cases of violations of the measures referred to in paragraph 2 have been officially reported. However, if it is determined that there are specific cases or signs of non-fulfilment of the measures mentioned, they will be communicated immediately to the Security Council Committee established pursuant to resolution 1267 (1999), provided this does not compromise the investigation or enforcement actions.

United Nations S/AC.37/2002/34

Security Council

Distr.: General
23 April 2002
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 16 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit herewith the report of Chile in implementation of Security Council resolution 1390 (2002) (see annex).

I would be grateful if you could circulate this report as a Security Council document.

(*Signed*) Cristián **Maquieira**
Ambassador
Chargé d'affaires a.i.

02-35183 (E) 010502 070502

Annex to the letter dated 16 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

Report of Chile in implementation of Security Council resolution 1390 (2002)

Introduction

1. Resolution 1390 (2002) dated 16 April 2002 of the Security Council — acting under Chapter VII of the United Nations Charter — in its paragraph 6, requested all States to report to the Committee established under Council resolution 1267 (1999) (1267 Committee) no later than 90 days from the date of adoption of that resolution on the steps they have taken to implement the measures referred to in its paragraph 2.

2. As stated in the guidelines for submission of reports under the aforesaid resolution 1390 (2002), it is the responsibility of States to implement and enforce those measures.

3. Accordingly, the State of Chile is submitting the report which follows to the 1267 Committee in implementation of the request contained in resolution 1390 (2002) and in accordance with the guidelines it issued on the submission of reports.

Content of resolution 1390 (2002)

4. The Security Council, reaffirming its resolutions relating to Afghanistan, reaffirming its unequivocal condemnation of the terrorist attacks that occurred in New York, Washington and Pennsylvania on 11 September 2001, noting that Osama bin Laden and the Al-Qaida organization are continuing to carry out activities in support of international terrorism and having determined that the Taliban have not met the demands made in resolutions 1214 (1998), 1267 (1999) and 1333 (2000), decided in paragraph 2 of resolution 1390 (2002) that all States shall take a series of measures that may be generically described as aimed at immediately freezing the funds and other financial assets or economic resources of Osama bin Laden, members of the Al-Qaida organization and the Taliban or other individuals, groups, undertakings or entities associated with them, as mentioned in the list created under resolutions 1267 (1999) and 1333 (2000) prepared and updated by the aforesaid 1267 Committee, and preventing their entry into or transit through their territories and the supply, sale and transfer to them of arms and related materiel of all types, or technical advice, assistance or training related to military activities.

Measures adopted by Chile in implementation of the resolution

5. As a first step taken by Chile to implement Security Council resolution 1390 (2002), a Supreme Decree of the President of the Republic was issued. In addition, the relevant authorities and public entities were ordered to ensure compliance with the aforesaid resolution in all areas that came within their competence. Lastly, the complete authorized text of the resolution and of the new consolidated list issued by

the Committee in implementation of resolutions 1267 (1999) and 1333 (2000) were published in the Official Journal.

6. With regard to the specific measures to be taken under subparagraphs (a), (b) and (c) of paragraph 2 of resolution 1390 (2002) designed to freeze without delay the funds and other financial assets or economic resources of those individuals, groups, undertakings and entities, prevent the entry into or the transit through Chilean territory of those individuals and prevent the supply, sale and transfer to them of arms and related materiel of all types, including technical advice, assistance or training related to military activities, the Ministries of Finance, Interior and Defence have also been specifically required to do whatever may be necessary to implement those measures, as have the relevant State Secretariats, which have also been given the new consolidated list issued by the 1267 Committee.

Information submitted to the Counter-Terrorism Committee

7. Without prejudice to the foregoing and account being taken of item 5 of the guidelines on the submission of reports, it is noted that the Counter-Terrorism Committee established under resolution 1373 (2001) (see S/2002/5) has been informed about the following aspects which come within the mandate of the 1267 Committee:

(a) With regard to the legislative and administrative measures to be taken to freeze funds and other financial assets or economic resources, attention should be drawn to Chile's response to subparagraph (c) of the paragraph containing question 1 of the questionnaire submitted to the aforementioned Counter-Terrorism Committee (page 9 seqq. of the report). To be noted, in particular, is the fact that Chilean criminal procedure legislation only provides that funds associated with crimes or ordinary offences can be seized, impounded or confiscated. Consequently, there are no special rules requiring an administrative decree to freeze assets and consideration is being given to bridging that legislative gap;

(b) With regard to measures to prevent the entry to or transit through Chilean territory, reference should be made to a statement in the above-mentioned report. Responses to paragraph 2 (b), (c) and (g) and to paragraph 3 (f) and (g) are to be found on pages 13, 14 and 15. In particular, it is pointed out that Chilean immigration laws contain provisions having the effect of prohibiting entry to the country and expelling foreign nationals involved in terrorist acts or rescinding their residence permits;

(c) With regard to measures to prevent the supply, sale and transfer of arms and related materiel of all types, the 1267 Committee should note the reply in paragraph 2 (a) (ii) (page 11). Moreover, Chile asserts that, in accordance with the Arms Control Act (Act 17,798), generally speaking, the manufacture, equipment, import or export of arms or controlled materials and the ownership of installations for the manufacture, equipping or storage or deposit of arms must be authorized by the Chilean Ministry of Defence or the Division for National Mobilization, as the case may be. In addition, at all times, reports of exports of arms and war-related materials must be brought to the attention of an Advisory Committee of the Defence Ministry, which shall decide on each export application. On the other hand, nobody in Chile can possess or own arms and controlled materials or ship, store, distribute or enter into agreements on those arms or materials without the necessary

authorization. For that reason, under the rules in force in Chile, the Government is in a position to fulfil the administrative requirements imposed by the Security Council.

Additional information

8. A further aspect to note, according to item 5 of the guidelines, which also applies to the report issued under resolution 1373 (2001), has to do with the Convention on the Financing of Terrorism that came into force as an international instrument on 10 April 2002. Article 8 of the Convention deals with the identification, detection, insurance or seizure of funds used or allocated for the purpose of committing the offences listed therein, which is related to measures on freezing the funds, assets and other financial or economic resources of Osama bin Laden, members of the Al-Qaida organization or the Taliban and other individuals, groups, undertakings or entities associated with them. Since Chile deposited its instrument of ratification on 10 November 2001, the Convention will become part of the national regulations.

9. Also, with respect to that international instrument, Chile wishes to reiterate what it stated in its reply to subparagraph (a) which contains question 1 of the questionnaire submitted to the Counter-Terrorism Committee, to the effect that the Government of Chile is studying how to bring criminal charges against the perpetrators cited in the Convention so that it can proceed to its full implementation, which has become mandatory since the Convention came into force.

10. Moreover, to supplement the Chilean report, paragraph 1 (a) on the prevention and suppression of the financing of terrorist acts in which the identities of those listed by the 1267 Committee were noted, disseminated and investigated in pursuance of the respective Security Council resolutions, it should be pointed out that as of 18 January 2002, the tax authorities of those banking institutions stated that in the investigation of those listed, no banking institution had reported that the individuals and organizations on the list were or had been their clients. Once again, under the new consolidated list issued by the 1267 Committee on 15 March 2002, Chile is submitting the updated data to the relevant tax authorities.

11. In addition, Chile has just completed active participation in negotiations in the Organization of American States (OAS) on a draft inter-American Convention against Terrorism. The Convention is expected to be adopted at the next OAS General Assembly and its primary objective is to prevent, punish and eliminate terrorism. It contains special regulations for preventing, combating and eradicating the financing of terrorism, embargoing and confiscating funds and other assets and offences indicating money-laundering.

12. It should also be noted that the inter-ministerial Group, with the Minister for Foreign Affairs as coordinator, to which reference was made in the report submitted to the Counter-Terrorism Committee (S/2002/5, appendix), has continued working and studying the measures to be adopted domestically to implement resolution 1373 (2001) as well as those imposed by resolution 1390 (2002) and will continue its efforts in future with a view to complying with the obligations inherent both in those resolutions and in the international conventions to which Chile is a party.

13. On the other hand, Chile points out the need for adequate international cooperation in order fully to implement the measures called for by resolutions 1373 (2001) and 1390 (2002), since their effectiveness depends not only on a State's activity, but on the collective participation and timely collaboration by all States.

14. The action described above provides an account of the specific steps taken by Chile to implement resolution 1390 (2002) and the measures it imposes. Chile will continue to exert the necessary effort to ensure respect for the rule of law called for in the United Nations Charter and the international treaties in force.

United Nations S/AC.37/2002/35

Security Council

Distr.: General
23 April 2002
English
Original: English/Italian

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 23 April 2002 from the Permanent Representative of Italy to the United Nations addressed to the Chairman of the Committee

Following the Chairman's note dated 7 March 2002, please find herewith the report by Italy, in Italian and English, pursuant to resolution 1390 (2002), to the Security Council Committee established pursuant to resolution 1267 (1999) (see annex).

(Signed) Sergio Vento
Ambassador

02-35177 (E) 060502

Annex to the letter dated 23 April 2002 from the Permanent Representative of Italy to the United Nations addressed to the Chairman of the Committee

Report by Italy, pursuant to Security Council resolution 1390 (2002), to the Security Council Committee established pursuant to resolution 1267 (1999)

Introduction

The present report illustrates the measures adopted in Italy to implement Resolution 1390/2002, which establishes a series of sanctions against the Taliban, Al Qaida, Usama Bin Laden and their associates, and decrees the freezing of their assets and a ban on entry and transit and on the supply of arms and related materiel.

This report complements and up-dates the report submitted on 27 December 2001 to the Counter-Terrorism Committee of the Security Council, in which detailed and more in-depth information was provided on the subject. As indicated also in the guidelines provided by the Committee, anyone seeking more detailed information on the fight against international terrorism, as conducted by Italy, should refer to that report.

The most significant elements in each of the three chapters into which the present report has been divided include the following:

With regard to the freezing of assets, it should be noted that, as described later in more detail, the action taken to combat the funding of international terrorism has produced excellent results. This is by virtue of the measures adopted further to the relevant UN Resolutions and EU Regulations, and the seizure orders implemented by the judiciary. As of 6 March 2002 the assets frozen or seized through such actions were in excess of 4.2 million euros.

With respect to the arms embargo, Italy already has a highly effective legislation in place, which dates from 1990. Such legislation envisages a strict system of controls for the imports and exports of arms, and the general principles of the law include a ban on exports that do not comply with the measures in place to combat terrorism. Moreover, exports

of materials included in the national list of arms and related materiel are only permitted if the transactions are being carried out with governments or with companies authorised by the government of the recipient country.

The system is also subject to regular up-dates to ensure full compliance with the international agreements Italy has signed on the issue. Also deserving of mention are the downstream measures put in place in the transportation sector, whether through international agreements or domestic legislation, to regulate the transfer of arms and explosives by all possible access routes (land, air or sea).

Finally, the situation regarding visa denials and bans on entry and transit, merits a specific note. Italy is one of the signatory countries to the Schengen Treaty, through which a series of functions linked to the granting of visas, that were previously carried out at the national level, have been devolved to a centralised system (Schengen Information System or SIS).

Within this framework, some technical and operational difficulties have been encountered which have prevented the SIS from being used as fully as it might. These difficulties are the result of gaps in the identification details of the individuals included in the lists drawn up in accordance with UNSCR 1267/1999, 1333/2000 and 1390/2002. Italy has raised this issue formally with the competent Schengen Treaty bodies with a view to finding a suitable solution that can be applied in a uniform manner in all the signatory countries. It should be underlined that this is a technical question that does not in any way arise from a political position expressed by any of the Schengen member countries. It underlines, on the other hand, the importance of defining effective procedures and arrangements for inclusion in the lists of individuals subject to sanctions, in order to ensure that they can be put to the fullest use possible.

a) Freezing of assets

Article 2 of Commission Regulation (EC) 467/2001 implementing United Nations Security Council Resolutions 1267/1999 and 1333/2000, provides for the freezing of all capital and all financial resources belonging

to any natural or legal person, entity or organisation named by the Sanctions Committee established by the United Nations Security Council Resolution 1267/1999. Under Decree-Law 353/01 enacted as law No. 415 of 27 November 2001, (Penalties for violations of the measures adopted against the Afghan Taliban faction), Italian legislation has put in place administrative penalties for offences in violation of Regulation 467, taking on board the list of entities and persons subject to these provisions and subsequent updates thereof.

Regulation (EC) 2580/2001, implementing United Nations Security Council Resolution 1373/2001, provides for the freezing of capital and other financial assets or economic resources of persons committing or attempting to commit, participating in or facilitating the commission of any act of terrorism. Section 2 of Decree-Law No.369/01, enacted as law 431 of 14 December 2001, provides that any acts performed in violation of the provisions prohibiting the export of goods and services, involving the freezing of capital or other financial resources set out in regulations adopted by the European Union Council, also in implementation of UN Security Council Resolutions, are null and void.

The updated data at 6 March 2002 show that 88 individuals and entities had had their assets frozen, of which 47 bank accounts, 33 insurance policies and 4 investment funds. The total value of the frozen assets was € 204,419.09 and $ 298,189.11 (of which € 108,924.40 in bank deposits, € 54,271.98 in insurance policies and € 54,271.98 in investment funds).

Furthermore, the Bank of Italy has issued instructions to financial intermediaries to notify the *Ufficio Italiano Cambi* – UIC - of (the Italian Financial Intelligence Unit) all suspicious transactions linked in any way whatsoever to individuals, entities or undertakings connected with the events of 11 September in the United States, referring to EC Regulations 467 and 1354 of 2001, and the list drawn up by the Basle Committee on Banking Supervision. The UIC, as per the instructions issued to banks and financial intermediaries and published in the Official Gazette, has posted on its own Internet site (www.uic.it/liste/terrorismo.htm) the list of entities and individuals to be reported.

The UIC may provisionally freeze funds deemed suspect for 48 hours, by issuing an order subject to confirmation by the courts, which may then order the assets to be seized. Under Italian legislation, economic assets and financial resources linked to terrorist organisations can be seized through a criminal sequestration order. In this case, the sequestration order is issued by the courts (the public prosecutor or the judge) as part of a criminal proceeding for crimes linked to international terrorism. The purpose of a criminal sequestration order could be to gather evidence (when it involves the seizure of economic and financial assets that can demonstrate the commission of a crime) or it may be for preventive purposes (when the economic or financial assets might be used to enable the commission of further crimes if left at the disposal of the persons against whom criminal investigations are being conducted or against whom criminal charges have been laid). The criminal sequestration order may be issued in respect of any asset, resource or item of property. In other words cash, bank accounts, securities and commercial assets, etc. provided that these are goods or resources linked to the criminal activities forming the matter under criminal investigation or ongoing criminal proceedings.

In order to make the criminal sequestration order more effective in the case of international terrorism, decree law 374 of 18 October 2001 (enacted as law No 438 of 15 December 2001) introduced two new crimes into the criminal code (article. 270 bis and art. 270 ter) in order to create a crime of conspiracy to commit acts of international terrorism or to provide assistance to criminal conspirators. These new crimes make it possible to punish anyone promoting, creating, organising, managing or financing an organisation intended to commit acts of violence for the purposes of international terrorism, as well as any conduct by persons aiding and abetting members of any such terrorist organisations (by providing them, safe harbour, board, lodging, means of transport or communication). The same decree law No 374 of 18 October 2001 expressly provides that for the purposes of criminal law, acts of violence against a foreign state, institution or international organisation are considered to be an act of terrorism. Decree law No 374 of 18 October 2001, lastly, increased the powers of the judicial police to investigate crimes committed for terrorist purposes, governing infiltration by the police and intercepting

communications or conversations as a preventive measure, giving greater freedom than allowed under the current code of criminal procedure. This has created an effective system for investigating and prosecuting terrorist acts specifically targeted against foreign states or international organisations, to make it possible to more rapidly identify economic and financial assets and resources belonging to terrorists, and make it possible to issue criminal sequestration orders against them once they have been identified.

Thanks to such criminal law provisions, it has been possible to seize economic, financial and commercial assets in the course of investigations conducted by the public prosecutor's offices against individuals connected with international terrorist activities. The total value of assets and property seized is to date of US$ 117,624 and € 4,073,096.91, belonging to the persons and/or organisations under investigation. For the most part they refer to current account bank deposits, guaranteed loans, letters and/or lines of credit.

b) Prohibition on entry and transit (Border control and visas)

It should be noted that Italy is a member of the Schengen Agreement group of countries. Procedures for issuing visas have therefore been transferred to this international co-operation system and no longer fall within Italian national jurisdiction. For further detailed information, Italy would like to refer to the Report which the Schengen Agreement Presidency will submit on this point.

The following should be noted, however.

Only 38 out of 212 individuals included in the lists referred to in UNSCR 1390/2002, would appear at first examination to meet the minimum requirements for inclusion in the Schengen Information System (SIS): i.e. date or at least year of birth. With respect to names for which the existing identification data is potentially satisfactory, a common procedure applicable to all the Schengen countries will nevertheless need to be agreed, in order to make recourse to the SIS possible. Italy has underlined actively in the competent European fora the need to swiftly introduce all technical and regulatory modifications needed, in order to make the system

as effective as possible with respect to the stipulations of UNSCR 1390.

The competent Italian authorities, furthermore, are examining what further measures could be eventually introduced at the national level, if necessary and possible even before the said operational adaptations of the Schengen system have been finalized

c) Prohibition on the supply and sale of weapons

Law No.185 of 9 July 1990 introduced control mechanisms and documentary guarantees, to ensure that the individuals, groups, undertaking and entities indicated in UNSCR 1390/2002 are denied the capability to acquire arms and related materiel from Italy.

The general principles of the law stipulate that exports which are in contrast with the aim of combating terrorism are prohibited. Furthermore, the export of items included in the national register of arms and related materiel is only permitted if such activities are transacted with governments or companies authorised by the government of the consignee state.

In order to ensure that this condition is met and avoid any possible triangulation, all applications for the export of arms and related materiel to any country not belonging to NATO must, among other things, be accompanied by an end-user certificate. In this document, the foreign government declares that it is importing the materiel for domestic use and that it will not be re-exported without the consent of the Italian government.

The signature on the certificate must be authenticated by the Italian diplomatic authority accredited to the issuing government. Authentication must be accompanied by a statement certifying that the signing authority is the authority empowered to issue the document in question. When the operation is completed, the exporting company is required to produce certification or an equivalent documentation, to show that the materiel has reached its destination.

When instructing applications for permission to negotiate export contracts, due consideration is also given by the competent Italian authorities to the European Code of Conduct for Arms Exports and, in particular, to criterion 6(a) the conduct of the buyer country in supporting or encouraging terrorism, and to criterion 5(b) referring to the risk that the goods to be exported may be used against the exporting country's own armed forces or those of friendly and/or allied countries.

With regard to controls on the export of weapons which do not fall within the scope of law No.185 of 9 July 1990 (common firearms, weapons of war, their parts, munitions and explosives for civil use), specific regulations have been issued by the Ministry of Internal Affairs. In its latest version, the applicable Regulation stipulates that clearance by the said Ministry is required for all applications to export common firearms, weapons of war, spare parts for them and related munitions and explosives to:

- countries against whom procedural limitations have been imposed, i.e. countries subject to an embargo on the export and transit of battlefield materiel as a result of the imposition of a total or partial embargo on the supply of battlefield materiel by the United Nations and/or appropriate bodies of the European Union, or whose governments have been responsible of certified violations of human rights;
- countries subject to an embargo on exports decided by other European countries and against whom the more complex assessment procedure referred to in the European Code of Conduct (approved by the European Union Council) applies;
- member countries of the Economic Community of West African States (ECOWAS), signatories to a moratorium on the introduction into their territories of small arms, including smooth-bore weapons.

It should be noted that the issuance of the ministerial clearance, is subject to the advice of the Unit for the Authorisation of Arms Materiel (UAMA) at the Ministry of Foreign Affairs and to the previous clearance from the Central Directorate for Crime Prevention Police.

With regard to dual-use items, the rules and procedures set out in EC Regulation 1334/2000 on the control of exports of these items are in compliance with the international commitments undertaken in the non-proliferation fora of which Italy is a member. The scrutiny of applications submitted and the granting of export licences fall under the responsibility of the Ministry for Productive Activities (Industry and Trade). In granting a licence, the said Ministry acts on the basis of the advice received by the other Ministries concerned and takes full account of all other elements deriving from sanctions imposed under UN Resolutions.

Special mention should also be made of the wide-ranging legislation enacted by Italy for the transportation of dangerous goods, which covers all forms of transportation.
In respect of transportation by rail, the matter is governed by the E.C. Directive 96/49 (incorporated into Italian legislation by Decree-Law 41 of 1999) and by the Ministerial Regulation Decree of 27 February 2002. The European Agreement concerning the international carriage of dangerous goods by road, ratified by law 1839/1962 and law 502/1981, covers the transportation of explosive materials by road.

In respect of transportation of dangerous goods by sea and the penalties imposed by arms embargos, the transit and stay of national and foreign merchant vessels may be prohibited at any time and in any place inside or outside territorial waters when this is required in the interests of national defence (law No.612/1912, *'Provisions for the transit and stay of merchant ships along the Italian national coasts*, and art.83 of the Navigation Code *'Ban on transit and stay'*). Italy has also ratified, with law No.422/1989, the *'Convention for the suppression of unlawful acts against the safety of maritime navigation ("Lauro Convention")*'. Article 3 of the Convention provides criminal penalties for Captains wilfully providing false navigation information in order to conceal the nature of the cargo (arms or arms related materiel), during the exercise of their right of passage across Italy's territorial sea (12 miles from the baseline). With regard to the loading, unloading and transportation of explosives in Italian ports, the provisions of the Ministerial Decree of 4 May 1995 '*Procedures for the issue of authorisation to unload and transport by sea or the issue of clearance for the unloading of dangerous cargoes*' apply.

Lastly, the transportation of dangerous goods by air is governed by the legislation set out in Annex XVIII of the ICAO Civil Aviation Regulation, with which all airlines comply under Ministerial Decree No.55/1983. The local Airport Authorities are responsible for the issuance of clearances for the transport of weapons, explosives or munitions on scheduled flights, after ascertaining the conformity of the authorisation issued by the Police Authorities.

United Nations S/AC.37/2002/36

Security Council

Distr.: General
16 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2002 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, pursuant to paragraph 6 of Security Council resolution 1390 (2002) of 16 January 2002, has the honour to forward the national report of the Republic of Hungary on the implementation and enforcement of mandatory measures contained in the latter resolution (see annex).

02-35141 (E) 020502

Annex to the note verbale dated 16 April 2002 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Hungary pursuant to paragraph 6 of Security Council resolution 1390 (2002) of 16 January 2002 to the Security Council Committee established pursuant to resolution 1267 (1999)

The Republic of Hungary is fully committed to the implementation of Security Council Resolution 1390 (2002). To this end, Hungary has taken wide-ranging legislative, executive and administrative actions. Those of particular relevance for the implementation of Security Council Resolution 1390 (2002) are listed below:

- the National Assembly of the Republic of Hungary adopted Act LXXXIII. of 2001 on Combating Terrorism, on Tightening up the Provisions on Impediment of Money Laundering and on the Ordering of Restrictive Measures.

- the Government of Hungary adopted Government Decree 299/2001 on the Implementation of Act XXIV. of 1994 on Prevention and Impeding of Money Laundering.

- the Government of Hungary adopted Government Decree 56/2002 (March 29) on the Ordering of Certain Restrictive Measures based on International Obligations to Combat Terrorism and

- Government Resolution 2086/2002 (March 29) on Security Council Resolution 1390 (2002) regarding Tasks related to the Implementation of Security Council Resolution 1390 (2002). Introducing Restrictive Measures against Terrorist Organizations and the Implementation of the Common Position of the Council of the European Union on Combating Terrorism

I. Legislative and executive actions taken in order to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of Resolution 1390 (2002)

1. By amending a whole range of existing laws, a number of which are relevant to the Committee's mandate, Act LXXXIII of 2001 has served in many respects as a basis for Government action related to Security Council Resolution 1390 (2002).

In particular, Act LXXXIII of 2001 in Section I, paragraph 3 introduced, inter alia, the following restricting measures, facilitating government action in freezing terrorists assets:

3. b) prohibition on the undertaking by residents of financial commitments, and suspension of the performance of the financial obligation assumed;

c) prohibition on investments by non-residents in Hungary and by residents abroad;

e) restriction on the right of non-residents to dispose of funds and securities they hold with domestic credit institutions or investment service providers, and refusal to execute transfer orders of non-residents.

as well as the same measures applicable to

ea) their branches and representation offices in Hungary;

eb) resident economic organisations under their direct control, as defined in paragraph (2) of Article 23 of Act LVII of 1996 on the prohibition of unfair and restrictive market practices;

ec) their foundations registered in Hungary;

ed) funds and securities of which they are beneficial owners but which are registered in the name of a resident.

2. Government Decree 56/2002 provides for the application of restrictive measures contained in Act LXXXIII Section 1, paragraph 3 (b), (c) and (e) in order to freeze the financial claims and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in the list in paragraph 2 of Resolution 1390 (2002) including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf.

More specifically, restrictive measures to be applied in connection with para. 3 (b) and (e) are as follows:

- all financial assets (bank accounts, security accounts, clients accounts) owned, even if registered in the name of a resident, by individuals, groups, undertakings and entities covered by the Decree, should be blocked (frozen).

- no payment or transfer can be executed from blocked financial assets or accounts.

- financial obligations in relation with individuals, groups, undertakings and entities covered by the Decree, including themselves or the persons acting on their behalf, may only be performed by payment to a blocked account, opened with the credit institution or investment service provider. Once the payment is made to the blocked account the obligation shall be considered performed.

- even in cases not covered in para. 3 (b), (c) and (e) resident financial institutions and investment service providers are not allowed to transfer or release financial assets to individuals, groups, undertakings and entities covered by the Decree.

Specific restrictive measures in connection with para. 3 (c):

no economic organisation, branch, commercial representation office may be established with the participation of individuals, groups, undertakings and entities covered by the Decree. Such foundations cannot be registered in the trade registry.

- in case individuals. groups. undertakings and entities covered by the Decree are shareholders in resident economic organisations. they are prohibited to exercise their ownership rights.

- in case individuals. groups. undertakings and entities covered by the Decree are beneficial owners or owners but registered in the name of a resident of securities. their right of disposal over those securities is suspended.

3. Concerning other relevant measures. reference is made to the Hungarian national report (S 2002 32) submitted to the Counter Terrorism Committe (CTC) pursuant to Security Council Resolution 1373. namely to the information provided under operative paragraph 1. subparagraphs (a) and (c). respectively.

II. Measures taken to prevent the entry into or transit through Hungary of the individuals as referred to in the list mentioned in paragraph 2 of resolution 1390 (2002)

1. Reference is made to the Hungarian national report submitted to the CTC. In particular „B" (Border Protection) under the heading „Measures taken to combat terrorism" as well as information provided under operative paragraph 1. sub-paragraphs (c). (d). (g) and operative paragraph 3. subparagraphs (f) and (g) of Security Council Resolution 1373 are of relevance. These sections of the report describe in details all relevant measures taken before the adoption of Security Council Resolution 1390 (2002).

2. Government Resolution 2086/2002 on Security Council Resolution 1390 regarding Tasks related to the Implementation of Security Council Resolution 1390. Introducing Restrictive Measures against Terrorist Organizations and to the Implementation of the Common Position of the Council of the European Union on Combating Terrorism provides for the prevention of the entry into or the transit through Hungary of individuals as referred to in the list mentioned in paragraph 2 of Resolution 1390 (2002).

3. In the context of the common position of the Council of the European Union on combating terrorism (2001/930/CFSP). Government Resolution 2086/2002 provides for efficient cooperation with states. party to the common position. in the framework of existing bilateral intergovernmental agreements in order to meet the obligations assumed in the common position on combating terrorism. especially in the prevention of movement of terrorist persons or networks. the detection of false or forged travel documents. the control of traffic in arms and explosives. the detection and seizure of communication technologies used by terrorist groups and weapons of mass destruction in their possession as well as in the field of granting refugee status.

III. Measures taken to prevent the direct or indirect supply, sale and transfer to individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of Resolution 1390 (2002) from the territory of Hungary or by Hungarian nationals outside Hungary, or using Hungarian flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the afore-mentioned and technical advice, assistance, or training related to military activities

1. Reference is made to the Hungarian national report submitted to the CTC. In particular, information provided under operative paragraph 1, sub-paragraph (a) of Security Council Resolution 1373 is of relevance.

2. Government Resolution 2086/2002 regarding Tasks related to the Implementation of Security Council Resolution 1390, Introducing Restrictive Measures against Terrorist Organizations and to the Implementation of the Common Position of the Council of the European Union on Combating Terrorism provides for the prevention of the direct or indirect supply, sale and transfer to individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of Resolution 1390 (2002) from the territory of Hungary or by Hungarian nationals outside Hungary, or using Hungarian flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the afore-mentioned and technical advice, assistance, or training related to military activities.

3. In the context of the Common Position of the Council of the European Union on combating terrorism (2001/930/CFSP), Government Resolution 2086/2002 provides for the elaboration of amendments to existing Penal Code provisions in accordance with relevant regulations of the European Union, in order to act more efficiently against individuals and entities involved in the commission of terrorist acts, the supply of weapons to terrorists, the recruitment of terrorist groups or otherwise.

United Nations S/AC.37/2002/37

Security Council

Distr.: General
24 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 23 April 2002 from the Permanent Representative of Japan to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of Japan to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, pursuant to operative paragraph 6 of resolution 1390 (2002), has the honour to transmit herewith the report of the Government of Japan on the steps it has taken to implement the latter resolution (see annex).

02-35159 (E) 070502

Annex to the note verbale dated 23 April 2002 from the Permanent Representative of Japan to the United Nations addressed to the Chairman of the Committee

Report to the Security Council Committee established pursuant to resolution 1267 (1999), pursuant to paragraph 6 of Security Council resolution 1390 (2002)

In its report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 of September 28, 2001 (enclosure to S/2001/1306 submitted on December 27, 2001, hereinafter referred to as "*S/2001/1306*", copy of which is attached hereto), Japan presented information which is relevant to paragraph 6 of Security Council resolution 1390 (2002).

In order to avoid duplication, this report indicates the relevant information and/or page(s) of *S/2001/1306*, adding new information and/or measures taken since the submission of *S/2001/1306*.

The provisions of SCR1390 (2002) have been implemented through previous legislation and executive measures, including those listed on page 4 of *S/2001/1306*.

1. Measures to cut off terrorists' funds (sub-paragraph (a) of operative paragraph 2, SCR 1390)

Relevant information is presented on page 5 of *S/2001/1306* where measures to cut off terrorists' funds are explained, and also on pages 7 and 8 of *S/2001/1306* where comments are made in response to the specific questions posed by the CTC concerning sub-paragraphs (a), (b), (c) and (d) of operative paragraph 1 of SCR 1373.

After the submission of *S/2001/1306* on December 27, 2001, the Government of Japan extended asset freezing measures to the following additional organizations and individuals, in accordance with SCRs 1267 (1999), 1333 (2000), and 1390 (2002).

- On January 16, 2002:
  - Afghan Support Committee (a.k.a. Lajnat ul Masa Eidatul Afghania, Jamiat Ayat-ur-Rhas al Islamia, Jamiat Ihya ul Turath al Islamia, and Ahya ul Turas)
  - Revival of Islamic Heritage Society (a.k.a. Jamiat Ihya Al-Turath Al-Islamiya,

Revival of Islamic Society Heritage on the Afghan Continent, Jamia Ihya ul Turath)
- AL-LIBI, Abd al-Muhsin (a.k.a. Ibrahim Ali Muhammad Abu Bakr)
- AL-JAZIRI, Abu Bakr

● On March 15, 2002:
- Al-Haramain Islamic Foundation in Bosnia-Herzegovina
- Al-Haramain Islamic Foundation in Somalia

The government removed the asset freezing measures against the following organizations, in accordance with SCR 1388(2002) and UN Sanctions Committee decisions on January 11 and 24, 2002. Therefore, currently no account is subject to being frozen.

● On January 16, 2002:
- Da Afghanistan Bank (a.k.a. Bank of Afghanistan; a.k.a. Central Bank of Afghanistan; a.k.a. The Afghan State Bank)

● On January 17, 2002:
- Ariana Afghan Airlines (formerly known as Bakhtar Afghan Airlines)

● On January 29, 2002:
- Bank Millie Afghan (a.k.a. Afghan National Bank; a.k.a. Bank E. Millie Afghan)
- Agricultural Development Bank of Afghanistan (ADB)
- Afghan Export Bank
- Export Promotion Bank of Afghanistan

2. Prevention of entry and transit (sub-paragraph (b) of operative paragraph 2, SCR 1390)

Relevant information is presented on pages 10, 11 and 12 of *S/2001/1306* where comments are made in response to the specific questions posed by the CTC concerning sub-paragraphs (c) and (g) of operative paragraph 2 of SCR 1373.

Immigration inspectors at international airports in Japan are able to prevent entry into Japan of those individuals as referred to in the updated list originally created pursuant to resolutions 1267(1999) and 1333(2000).

The Immigration Bureau of the Ministry of Justice has established "Document Examination Offices" at both Narita Airport and Kansai International Airport, where suspicious travel documents are subject to cross checking. Airports that handle scheduled international flights are equipped with sophisticated document identification devices, ensuring strict control at each entry point.

The Ministry of Foreign Affairs has instructed all overseas establishments to refrain from issuing entry visas to any of the individuals mentioned in the list issued by the Sanctions Committee.

3. Prevention of supply, sale and transfer of weapons (sub-paragraph (c) of operative paragraph 2, SCR 1390)

Relevant information is presented on pages 9 and 10 of *S/2001/1306* where comments are made in response to the specific questions posed by the CTC concerning sub-paragraph (a), operative paragraph 2, of SCR 1373.

The Fisheries Agency and the Ministry of Land, Infrastructure and Transport respectively are requesting related Japanese associations to act accordingly and to take necessary steps in accordance with sub-paragraph (c) of operative paragraph 2, SCR 1390.

United Nations S/AC.37/2002/38

Security Council

Distr.: General
25 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 24 April 2002 from the Permanent Representative of the United States of America to the United Nations addressed to the Chairman of the Committee

The United States Mission to the United Nations hereby presents its report pursuant to paragraph 6 of Security Council resolution 1390 (2002) on actions it has taken to implement the measures referred to in paragraph 2 of the same resolution (see annex).

(*Signed*) John D. Negroponte

02-35374 (E) 070502

Annex to the letter dated 24 April 2002 from the Permanent Representative of the United States of America to the United Nations addressed to the Chairman of the Committee

Report of the United States of America pursuant to Security Council resolution 1390 (2002)

The United States Mission to the United Nations presents its compliments to the Committee established pursuant to paragraph 6 of resolution 1267 (1999). UNSCR 1390 (2002), paragraph 6, requests all member states to report to the Committee on steps they have taken to implement the measures referred to in paragraph 2 of the same resolution.

The United States informs the Committee of the following actions which were taken in accordance with the laws of the United States and which implement Resolution 1390. The United States had already implemented many of the provisions of UNSCR 1390 through prior actions, including through the issuance of Executive Order 13129 of July 4, 1999 prior to adoption of UNSCR 1267. In addition, many of the measures described in the United States' report to the United Nations Counterterrorism Committee (December 19, 2001), created pursuant to UNSCR 1373, further the implementation by the United States of the assets freeze, arms embargo and travel ban required by UNSCR 1390. The United States has actively supported the United Nations' efforts to provide relevant information to assist the Committee's efforts to update regularly the list referred to in paragraph 2 of UNSCR 1390 (2002).

-- The United States has ordered to be frozen the funds and other financial assets or economic resources of the Taliban, Usama bin Laden, members of the al-Qaida organization and other individuals, groups, undertakings and entities associated with them (paragraph 2(a)), in Executive Order 13129 of July 4, 1999, Executive Order 13224 of September 23, 2001 and Executive Order 12947 of January 23, 1995, as amended by Executive Order 13099 of August 20, 1998, and Department of the Treasury regulations, orders and directives issued thereunder. Additionally, these Executive Orders, and the Department of the Treasury's implementing regulations, and other U.S. legal authority effectively prohibit all transactions or dealings with Usama bin Laden, members of the al-Qaida organization and the Taliban, and other individuals, groups, undertakings and entities associated with them, by U.S. persons or within the United States.

-- In order to prevent the entry into or transit through the territory of the United States by individuals listed by the 1267 Committee, the United States has entered the designated individuals into a database maintained by the Department of State, in order to determine those permitted to travel to the United States.

-- The United States has imposed an arms embargo on Usama bin Laden, members of the al-Qaida organization and the Taliban, and other individuals, groups, undertakings and entities associated with them with respect to arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned and technical advice, assistance, or training related to military activities. Executive Order 13129 of July 4, 1999, among others, and the Department of the Treasury implementing regulations, orders and directives thereunder, effectively prohibit all transactions or dealings with Usama bin Laden, members of the al-Qaida organization and the Taliban, and other individuals, groups, undertakings and entities associated with them, by U.S. persons or within the United States. In addition, all Taliban property in the United States or under the control of a United States person has been ordered blocked. A new Federal register notice has been prepared to make more explicit to the public the U.S. policy of denial of any new export license application or other request for approval for the export or transfer of commercial defense articles or defense services to those individuals and entities listed by the 1267 Committee.

United Nations S/AC.37/2002/39

Security Council

Distr.: General
26 April 2002
English
Original: Russian

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 26 April 2002 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Russian Federation to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan and has the honour to inform him that, within the framework of the measures taken by the Russian Federation to implement Security Council resolutions 1388 (2002) and 1390 (2002), Russian Federation President Vladimir Putin signed Decree No. 393 of 17 April 2002 on measures to implement Security Council resolutions 1388 (2002) of 15 January 2002 and 1390 (2002) of 16 January 2002.

The Decree prescribes that, in addition to complying with the measures in force pursuant to paragraph 1 (b) of Russian Federation Presidential Decree No. 786 of 5 May 2000 on measures to implement Security Council resolution 1267 (1999) of 15 October 1999, and paragraph 1 (e) of Russian Federation Presidential Decree No. 266 of 6 March 2001 on measures to implement Security Council resolution 1333 (2000) of 19 December 2000, in their activities all State institutions, industrial, commercial, financial, transport and other undertakings, companies, banks, entities and other legal and natural persons under the jurisdiction of the Russian Federation are instructed to observe, from 17 January 2002 to 17 January 2003, the following provisions:

(a) The funds and other financial assets or economic resources of Usama bin Laden, members of the Al-Qaida organization and the Taliban, and other individuals, groups, undertakings and entities associated with them, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction shall be frozen, and measures shall be taken to ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by nationals of the Russian Federation or by any persons within the territory of the Russian Federation;

(b) The entry into or the transit through the territory of the Russian Federation of the nationals referred to in paragraph (a) shall be prohibited, except in

the case of nationals of the Russian Federation, and except where such entry or transit is necessary for the fulfilment of a judicial process or is authorized by the Security Council Committee established pursuant to Security Council resolution 1267 (1999) of 15 October 1999 (hereinafter referred to as "the Committee");

(c) The direct or indirect supply, sale and transfer to the individuals, groups, undertakings and entities referred to in paragraph (a) from the territory of the Russian Federation or by its nationals outside its territory, or using its flag vessels or aircraft, of manufactured articles for military use, dual-use goods and technology, spare parts, assembled units and auxiliary equipment for such articles and goods, and technical advice and assistance related to military activities, or training in this field shall be prohibited.

It is hereby established that the measures provided for in this Decree and in paragraph 1 (b) of Russian Federation Presidential Decree No. 786 of 5 May 2000, and paragraph 1 (e) of Russian Federation Presidential Decree No. 266 of 6 March 2001 shall not apply to the aircraft, funds and other financial resources of Ariana Afghan Airlines.

The following are hereby considered no longer in force:

Paragraph 1 (a) of Russian Federation Presidential Decree No. 786 of 5 May 2000 on measures to implement Security Council resolution 1267 (1999) of 15 October 1999; and

Paragraph 1, subparagraphs (a) to (d), and (f) to (h), of Russian Federation Presidential Decree No. 266 of 6 March 2001 on measures to implement Security Council resolution 1333 (2000) of 19 December 2000.

United Nations S/AC.37/2002/40

Security Council

Distr.: General
26 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 18 April 2002 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Chairman of the Committee

I have the honour to enclose herewith the report of the Federal Republic of Yugoslavia to the Security Council Committee established pursuant to resolution 1267 (1999) (see annex). I should be grateful if you would have the text of this letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Dejan Šahović
Ambassador
Permanent Representative

02-35752 (E) 130502

Annex to the letter dated 18 April 2002 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Chairman of the Committee

Reply of the Federal Republic of Yugoslavia to the Security Council Committee established pursuant to Security Council resolution 1267 (1999) on the implementation of Security Council resolution 1390 (2002)

The Federal Republic of Yugoslavia has repeatedly expressed its full commitment to the struggle against terrorism and undertook a series of measures and activities in that field and continues to do so. As a member State of the United Nations, the FR of Yugoslavia fully respects all decisions taken by the United Nations in the fight against international terrorism and fulfils all obligations arising therefrom. In that framework, the FR of Yugoslavia has undertaken the activities towards respecting and fulfilling the provisions of UN SC resolution 1390 (2002) as well as of other UN SC resolutions.

In line with the request contained in resolution 1390 (2002) of 16 January 2002, the Government of the Federal Republic of Yugoslavia submits the following reply.

Operative para 2 (a) *Obligation of States to freeze the funds and other financial assets or economic resources of Al-Qaida, Taliban and other individuals, groups, undertakings and entities connected with them and to ensure that those are not made available, directly or indirectly, for such persons' benefit by their nationals or by any persons within their territory.*

The authorities of the Federal Republic of Yugoslavia tightened financial control in accordance with the requests contained in UN SC resolutions 1267 (1999), 1333 (2000), 1373 (2001) and 1390 (2002). The examination of the records related to the accounts of foreign nationals held in Yugoslav banks has revealed that no account belongs to persons or institutions from the list of members of terrorist organizations prepared in line with UN SC resolutions 1267 (1999), 1333 (2000) and 1373 (2001), i.e. those listed in para 2 (a) of resolution 1390 (2002).

According to the information of the Ministry of the Interior, the cases of organized financial crime uncovered so far in the territory of the FR of Yugoslavia do not suggest any link with individuals and organizations connected to the Al-Qaida financial network, or persons and organizations supporting it.

Operative para 2 (b) *Obligation of States to prevent the entry into or the transit through their territories of the individuals referred to in the resolution.*

The competent authorities of the FR of Yugoslavia are taking appropriate measures to prevent the entry and transit of terrorists through its territory. It should be recalled that the competent State authorities in charge of ensuring border control are not in a position to control, under UN SC resolution 1244 (1999), a portion of the State border (295km) in the territory of Kosovo and Metohija towards the Republic of Macedonia and the Republic of Albania which is under KFOR control. In line with security assessments for the FR of Yugoslavia and its parts, the border units of the Army of Yugoslavia have upgraded over a protracted period of time the regular regime to a heightened state of control of the State border.

The competent security authorities of the Republic of Serbia are on a heightened state of alert and have taken a series of concrete measures that are still in effect, with a view to detecting terrorist groups and organizations and preventing the commission of terrorist acts in the territory of the Republic of Serbia and the FR of Yugoslavia, including:

- round-the-clock and full security arrangements for diplomatic-consular, business and cultural facilities of foreign countries, as well as for business and other resident offices of the countries conducting business and other forms of cooperation with these countries;
- heightened protection of all vital economic, utility and other important facilities, as well as stricter control of important facilities (airports, ports, railway and bus terminals, public transport, transport of goods, control of passengers and luggage, etc);
- heightened control of the movement and stay of foreigners at border crossings and in the country including internally displaced persons with refugee status;
- measures taken on a regular basis to control all public roads and all major public facilities as well as persons considered as potential perpetrators of terrorist attacks.

In order to carry out stricter control of the border, the organization of work at border crossings has been improved to enable efficient passport control, as well as passenger and luggage checks.

Due to its geographical location, the territory of the FR of Yugoslavia is often used as a transit route by illegal immigrants to West European countries. In 2000 and 2001, there were several thousand attempts by foreign nationals to illegally cross the State border. Demographic breakdown of illegal attempts has been consistent over the past few years, except that as a consequence of the war in Afghanistan there is an increase in illegal attempts of nationals from central Asian countries. Tighter measures have been undertaken to prevent and detect persons currently in refugee camps in neighbouring countries, intending to use the territory of the FR of Yugoslavia to illegally infiltrate West European Countries.

In 2001, many channels for illegal infiltration of people were cut and dozens of criminal charges were brought against those persons who committed a criminal act of illegal crossing of the State border, from Article 249 of the Criminal Law of the FR of Yugoslavia.

As a consequence of tightened entry control measures, in 2001 scores of various foreign nationals who did not fulfil entry conditions or against whom there existed reasonable doubt that, despite formal conditions, they did not fulfil the entry conditions, were turned back from border crossings for failing to fulfil the relevant entry criteria or who were considered that despite formal conditions do not fulfil the security requirements to enter the country.

The FR of Yugoslavia and its relevant authorities are ready to join the international activities in the fight against terrorism and extend all necessary assistance in order to root out this scourge of our time. To that end, the relevant UN bodies and commissions and other international organizations may be provided, if necessary, the data and relevant information in connection with the measures that have been taken and the results achieved in the fight against terrorism. The exchange of information in

this area is conducted on a regular basis at bilateral level among the countries in the region, as well as with the relevant international bodies and organizations. At meetings of police authorities of the neighbouring, European and other countries, the issue of mutual cooperation in the fight against international terrorism is regularly raised and the need to exchange information and discuss joint activities in this field is emphasized.

Operative para 2 (c) *Obligation of States to prevent the direct or indirect supply, sale and transfer of weapons, equipment, use of vessels or aircraft, technical or any other assistance or training to persons referred to in the resolution.*

All activities in the FR of Yugoslavia in the military field are carried out strictly in line with the laws regulating production and trade in materiel, weapons and military equipment and they are subject to control by competent institutions. Export licenses for weapons and military equipment are approved by careful review of applications in terms of potential terrorism. In addition, measures are taken to prevent purchase, direct or indirect, sales or transfer of weapons and military equipment to persons, organizations or institutions listed in para 2 of Resolution 1390 (2002), as well as all those for whom there is information or indication to be involved in terrorism or assisting it in any way.

In view of the measures undertaken by the competent authorities of the FR of Yugoslavia in the fight against terrorism, there is no possibility whatsoever that persons referred to in the resolution receive training in the territory of the FR of Yugoslavia.

Operative para 4 *Obligation of States to implement in full resolution 1373 (2001) including with regard to any member of the Taliban and the Al-Qaida organization.*

The FR of Yugoslavia has been consistently engaged in countering international terrorism and fulfilling its obligations arising from UN SC resolutions, and intends to do so in the future. To that end, it has already undertaken a series of measures at the national level and, in particular, tightened control in the financial field. In addition, the FR of Yugoslavia will urgently accede to a number of important international conventions relevant to the fight against international terrorism and ratify some of those which it was not in a position to accept earlier.

See the reply of the FR of Yugoslavia to UN SC resolution 1373 (S/2001/1328) of 31 December 2001.

Operative para 8 *Obligation of States to take immediate steps to enforce and strengthen through legislative enactments or administrative measures, where appropriate, the measures imposed under domestic laws or regulations against their nationals and other individuals or entities operating on their territory, to prevent and punish violations of the measures referred to in paragraph 2 of resolution 1390 (2002).*

See the reply of the FR of Yugoslavia to UN SC resolution 1373 (S/2001/1328) of 31 December 2001, operative para 1 (d), operative para 2 (a) and 2 (e).

***

The FR of Yugoslavia expresses its full support once again to the fight against international terrorism, regardless of where it comes from. Terrorism which threatens the basic human right to life became a global phenomenon and therefore requires a

global response. This evil should be stopped everywhere and anywhere, without exception, ensuring a consistent application of the same standards.

As a victim of terrorism itself, the FR of Yugoslavia is aware that overwhelming efforts should be made to achieve this goal but that it is necessary to take all measures and steps to achieve it, since terrorism brought no one any good.

If the competent authorities of the FR of Yugoslavia are to address the tasks in the fight against international terrorism successfully, it is necessary to equip the units engaged in the system of ensuring the State border with adequate technical equipment and to adjust the control of the State border to the standards and requirements of the European Union. For that reason, the FR of Yugoslavia would highly appreciate the relevant international assistance in this field.

United Nations S/AC.37/2002/41

Security Council

Distr.: General
26 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 25 April 2002 from the Permanent Mission of Australia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Australia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and has the honour to present him with Australia's report on the implementation of Security Council resolution 1390 (2002), in accordance with the request contained in operative paragraph 6 of the latter resolution (see annex).

02-35765 (E) 070502

Annex to the note verbale dated 25 April 2002 from the Permanent Mission of Australia to the United Nations addressed to the Chairman of the Committee

Report of Australia to the Committee established pursuant to paragraph 6 of Security Council resolution 1267 (1999) regarding implementation of Security Council resolution 1390 (2002)

Operative Paragraph 2

Decides that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

Sub-paragraph 2(a)

Decides that all States shall...(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

1. Australia initially implemented the financial restrictions imposed on the Taliban and Osama bin Laden contained in SCR 1267 and SCR 1333 under the *Banking (Foreign Exchange) Regulations*. Following passage of SCR 1373, Australia established a new mechanism for the identification and freezing of terrorist assets based on the *Charter of the United Nations (Anti-terrorism Measures) Regulations*.

2. Clause 9(1) of the *Charter of the United Nations (Anti-terrorism Measures) Regulations* makes it an offence for a person who holds:

- an asset that is owned or controlled by a person or entity listed by the Minister in the *Commonwealth Gazette* as a person or entity mentioned in paragraph 1(c) of SCR 1373, or
- an asset that is listed by the Minister for Foreign Affairs in the *Commonwealth Gazette*, or
- an asset that is derived or generated from either of the above classes of assets,

to use or deal with the asset; or allow the asset to be used or dealt with, or to facilitate the use of the asset or dealing with the asset.

3. The Minister for Foreign Affairs issued the first two lists of proscribed persons and entities in the *Commonwealth Gazette* on 21 December 2001, and the third on 20 March 2002. This action effectively freezes the Australian assets of all persons and entities named in the list maintained by the Security Council committee established under SCR 1267 (the 1267 List) and such other organisations as the Australian

Government considers to fall with the definition contained in Operative Paragraph 1(c) of SCR 1373. Organisations that have been removed from the 1267 List because they are no longer under the control of the Taliban have been deleted from the corresponding Australian lists.

4. The Australian Government has established a Working Group on Australian Financial Controls on Terrorists and Sponsors of Terrorism to coordinate and implement the Commonwealth Government's financial control initiatives in relation to the blocking of terrorist funds. The Working Group comprises the Federal Departments of Foreign Affairs and Trade, the Treasury and the Attorney-General's Department, the Australian Federal Police (AFP), the Australian Security Intelligence Organisation (ASIO), the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Director of Public Prosecutions and the Reserve Bank of Australia. For more detailed information on Australia's measures to combat terrorist financing, see *Report of Australia to the Counter-Terrorism Committee of the United Nations Security Council* of 26 December 2001 (S/2001/1247).

Sub-paragraph 2(b)

Decides that all States shall...(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified;

5. The Minister for Foreign Affairs has written to the Minister for Immigration and Multicultural and Indigenous Affairs requesting him to make new regulations under the *Migration Act 1958* to implement the travel restrictions imposed in this Sub-paragraph. Until these regulations come into effect, the Minister for Foreign Affairs will exercise his existing power under Public Interest Criteria 4003 of the *Migration Regulations 1994* to deny entry into Australia by persons referred to in the list maintained by the Security Council Committee established pursuant to SCR 1267 on the basis that such entry could prejudice Australia's relationship with another country.

Sub-paragraph 2(c)

Decides that all States shall ..(c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;

6. Export controls under the *Customs (Prohibited Exports) Regulations 1958* cover a wide range of defence and related goods and technologies, nuclear related goods and goods and technologies with both civil and military applications. The controls also cover goods being exported after or for repair, and the temporary export

of items for demonstration or loan purposes. The list of goods controlled forms the Defence and Strategic Goods List (DSGL) and includes equipment, assemblies and components, associated test, inspection and production equipment, materials, software and technology.

7. Regulation 13E of the *Customs (Prohibited Exports) Regulations* 1958 prohibits the export of goods listed in the DSGL without the permission of the Minister for Defence or his delegate, while Regulation 13CI prohibits the export to Afghanistan of arms or related materiel not listed in the DSGL without the permission of the Minister for Foreign Affairs. The Minister for Foreign Affairs has written to the Minister for Defence advising him of Australia's obligations under Security Council Resolution 1390 (SCR) and requesting that he exercise his powers under the *Customs (Prohibited Exports) Regulations 1958* accordingly.

8. The *Charter of the United Nations (Sanctions – Afghanistan) Regulations 2001* give extraterritorial effect to the arms embargo and the ban on military advice, assistance and training imposed in SCR 1333 against the Taliban. These Regulations are in the process of being amended to give effect to SCR 1390 by extending their application to the Al Qaida organisation and associated persons and entities referred to in the list maintained by the Security Council Committee established pursuant to SCR 1267.

9. More detailed information on Australia's export control regime, and a copy of the DSGL, is available on the Defence Materiel Organisation's website:

http://www.dmo.defence.gov.au/id/export/dsec/did_dsgl.cfm

United Nations S/AC.37/2002/42

Security Council

Distr.: General
29 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 23 April 2002 from the Permanent Mission of Canada to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Canada to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to Security Council resolution 1267 (1999) concerning Afghanistan and, with reference to the note of 7 March 2002 from the Chairman of the Committee, has the honour to forward the national report of Canada, pursuant to resolution 1390 (2002) (see annex).

02-35759 (E) 100502

Annex to the note verbale dated 23 April 2002 from the Permanent Mission of Canada to the United Nations addressed to the Chairman of the Committee

Report of Canada on the implementation of Security Council resolution 1390 (2002)

Security Council resolution 1390 (2002) calls upon all States to report to the Security Council Committee established pursuant to resolution 1267 (1999) on how they have implemented the measures contained in paragraph 2 of resolution 1390 (2002). Canada has implemented all measures through legislative and regulatory instruments, as described below.

Paragraph 2(a) of resolution 1390 is implemented in Canada by way of the *United Nations Afghanistan Regulations* (the "Regulations"), which were made on November 10, 1999. Article 4 of those Regulations effectively requires the freezing by persons in Canada and Canadians outside Canada of the assets of the Taliban, as designated by the Committee. The Regulations were amended on February 22, 2001 to implement resolution 1333 and freeze the assets of Usama bin Laden or his associates, as designated by the Committee.

Canada made the *United Nations Suppression of Terrorism Regulations* on October 4, 2001. Article 3 of these Regulations prohibits the provision or collection of funds to or on behalf of persons listed by the Committee or by the Government of Canada where it has reasonable grounds to believe that persons are associated with terrorist activity. These Regulations also impose a reporting requirement to law enforcement authorities on designated persons' assets.

Paragraph 2(b) of resolution 1390 has been implemented through the operation of paragraph 19(1)(f) of the *Immigration Act* which provides that persons who are involved in terrorism or members of terrorist organizations shall not be granted admission to Canada. On that basis, all persons listed by the Committee cannot be granted admission to Canada. In addition, paragraph 19(1)(l) provides that persons who are or were senior officials in the service of a government that is or was engaged in terrorism or systematic or gross human rights violations shall not be granted admission to Canada. The Taliban regime was designated accordingly.

Paragraph 2(c) of resolution 1390 has been implemented through Article 4 of the *United Nations Suppression of Terrorism Regulations*, which prohibits dealing in the property of a listed person (which includes those persons listed by the Committee), entering into any transaction with a listed person, and making any property available to a listed person. This prohibits the provision of arms and related materiel to those listed by the Committee.

In addition, paragraphs 4.2 to 4.4 of the *United Nations Afghanistan Regulations* prohibit the supply of arms and technical military assistance to any person in territory designated by the Committee as being controlled by the Taliban. Canada also has in place system of strict control over the import, export and internal possession of firearms and military weapons and explosives through the Export and Import Permits Act and the Criminal Code of Canada.

United Nations S/AC.37/2002/43

Security Council

Distr.: General
30 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 25 April 2002 from the Permanent Representative of the Netherlands to the United Nations addressed to the Secretary of the Committee

The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Secretary of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to paragraph 6 of Security Council resolution 1390 (2002), has the honour to report upon the implementation of resolution 1390 (2002) to the Committee.

In the Netherlands measures ensuing from Security Council resolutions are in general implemented via European Union regulations, which are directly applicable in the Netherlands. We expect the European Union regulation implementing resolution 1390 (2002) to be adopted soon. Till the adoption of that regulation the Netherlands have in place legislation based upon Security Council resolutions 1267 (1999) and 1333 (2000) regarding the persons and entities listed under those resolutions. Information with regard to the implementation of resolutions 1267 (1999) and 1333 (2000) has already been submitted to the Counter-Terrorism Committee in the reports of the Netherlands (S/2001/1264) and the European Union (S/2001/1297).

After the adoption of the European Union regulation implementing resolution 1390 (2002), a full report in accordance with the provided guidance will be submitted to the Security Council Committee established pursuant to resolution 1267 (1999).

(*Signed*) Dirk Jan **van den Berg**
Ambassador
Permanent Representative

02-35949 (E) 010502

United Nations S/AC.37/2002/44

Security Council

Distr.: General
1 May 2002
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 30 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1267 (1999).

With regard to the note dated 7 March 2002 from the Chairman of the Committee, the Permanent Mission of Spain to the United Nations submits the attached report to the Committee on the measures taken in application of resolution 1390 (2002), adopted by the Security Council on 16 January 2002 (see annex).

02-36285 (E) 100502 170502

Annex to the note verbale dated 30 April 2002 from the Permanent Mission of Spain to the United Nations addressed to the Committee

Report on measures taken in implementation of Security Council resolution 1390 (2002)

Paragraph 6 of Security Council resolution 1390 (2002) requests all States to report to the Committee the steps they have taken to implement the measures referred to in paragraph 2 of that resolution. This report has been compiled in accordance with the relevant guidelines.

> (a) "Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory."

A. Norms applicable to the freezing of the financial assets of the individuals affected

The freezing of assets is a measure covered under Act No. 40/1979 of 10 December on exchange control, which consists in the possibility of applying restrictions or prohibitions on the movement of capital and related operations.

Specifically, paragraphs 3 and 4 of its article 2 (introduced in 1999) permit the prohibition of movements of capital when so stipulated by a European Community regulation or a resolution of an international organization other than the European Community of which Spain is a member.

Consequently, the European Community regulations covering the persons, companies or entities in Security Council resolution 1390 (2002) were directly and immediately applied in Spain, based on the provisions of the Act.

The obligation of financial entities to apply those principles is ensured through article 10, paragraph 1, of Act No. 40/1979, which stipulates that failure to implement the aforementioned prohibitions shall be considered a very serious offence.

B. Measures adopted to facilitate the awareness of financial entities about the persons, companies and entities included on the various lists

European Community regulations (and annexes containing the lists of persons affected by the freeze) are published in the *Official Journal of the European Communities*.

As a supplementary measure intended to ensure their immediate application, the Chairman of the Commission to Prevent Laundering of Capital and Monetary Crimes has repeatedly sent the excerpts from the *Official Journal* with the lists of persons, companies and entities mentioned to financial bodies and investment services companies. At the offices contacted, the presidents of the associations are

requested to disseminate the regulations and their annexes among the associated bodies.

C. Internal coordination meetings held between administrative units and departments involved in applying the freeze

Because of such factors as the urgency of the situation after 11 September and the transmission to various administrative bodies of a number of lists coming from different international organizations, among others, it seemed advisable to hold various meetings among the bodies affected by the adoption of the measures of freezing assets (the police, the Bank of Spain, Public Prosecutor's Office, the tax authorities, etc.).

The purpose of the meeting of the Standing Committee of the Commission on the Prevention of Laundering of Capital and Monetary Offences held on 26 October 2001 was to clarify the use of the information available, whether internal or issued by international agencies, how and with whom to share the information to make the system as operational as possible and achieve the greatest possible diligence in freezing the assets of terrorists.

Agreement was also reached on the form in which police departments should receive information which could corroborate or rule out the identification of persons or entities, in order to verify that they were the same as those who appeared on the lists, so that the financial entities could inform the Directorate-General of the Treasury and Financial Policy of the subsequent freezing of funds.

Based on these internal agreements, information on freezes supplied by the financial entities was provided to the specialized police units and the Intelligence Unit of the Commission.

D. Results of the measures implemented

In Spain there has been good cooperation between the administration and financial entities. An open channel of communication has been established, making it possible to know at any moment which accounts are blocked. Blocks have been placed on a preventive basis, allowing the competent authorities to conduct the relevant investigations enabling them to determine whether or not the client of the entity is the natural or legal person included on the lists. Therefore, the great majority of accounts which were initially blocked (71) have now been unfrozen after verification that the clients of the entities were not the individuals included on the lists.

As of now, only nine accounts, amounting to just 427.95 euro, remain blocked on a preventive basis while the identity of the account holders is being investigated.

E. Technical cooperation with the authorities of other countries of the European Union called together by the European Commission and third countries which participate actively in the expert committees on financial sanctions, invited by the "Group of experts on financial sanctions"

The purpose of the meetings held was to define the scope of the concept of economic resources, explain the legal problems presented and exchange information on the actions of the various countries. It should be noted that problems remain to which it is difficult to find a practical solution, for instance the freezing of resources

from the sale of gems or monitoring of small businesses that can operate under names different from those included in the lists issued on 23 September by the European Commission and on 30 November 2001 by the United States Treasury Department and its subsequent updates.

F. Measures relating to economic resources belonging to foreign nationals included on the lists

Note should be taken of the Agreement of the Council of Ministers of 30 November 2001, executing Security Council resolution 1267 (1999) and concurrent resolutions in conformity with the principles contained in Security Council resolution 1373 (2001), as well as Regulation 467/2001 of 6 March of the Council of the European Community, suspending the regime of liberalization of investment for certain organizations and terrorist groups.

This Agreement establishes a list of organizations, groups and individuals to which the suspension of the liberalization regime for foreign investment is applied. In turn, the Agreement establishes that the measures mentioned are to be applied to any other individual or entity that can be presumed to be a continuation of a prior one.

In executing the Agreement, all the lists issued by the European Commission in its Regulations (authorized by European Community Council regulation 467/2001) have been inspected, as well as all the names on the lists supplied by some Governments, in particular by the United States Treasury Department, in order to identify possible investments declared in the General Registry of Investments of the Ministry of the Economy.

Although many similarities in certain names have been discovered, there is no proof that terrorists own businesses in their names and are acting within the law in Spain. This does not mean that they are not receiving support from other foreign nationals who could own small businesses operating legally in Spain.

By way of conclusion, it can be noted that, despite the difficulty in defining in specific cases what constitutes financing of terrorism, the measures taken have provided more information and vigilance over the names included on the lists issued and/or transmitted by other Governments and have improved cooperation with law enforcement to prevent the financing of terrorism.

(b) "Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified."

Spanish law includes measures that provide for denial of entry into Spanish territory to individuals connected with the commission of crimes such as those covered under resolution 1390 (2002).

In particular, article 26 of Organic Law No. 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration stipulates:

"Those foreign nationals who have been expelled, as well as those to whom entry has been denied for another reason or by virtue of an international

convention to which Spain is a Party, may not enter Spain, nor obtain a visa for that purpose, while the denial of entry is in effect."

In developing that rule, the Regulation for the enforcement of this Organic Law, adopted by Royal Decree No. 864/2001 of 20 July specifically stipulates in its article 26:

"Foreign nationals shall be prohibited from entering, and access to Spanish territory shall be denied them, even though they meet the requirements of the preceding articles, when (...):

2. Through the diplomatic channel, through Interpol or any other method of international judicial or police cooperation it becomes known that they are sought in relation to criminal cases arising from serious common crimes, by the judicial or police authorities of other countries, as long as the acts for which they are sought constitute a crime in Spain.

3. Through their activities counter to Spanish interests or the interests of humanity, because of their connections with national or international criminal organizations, they have been the subject of an express denial by virtue of a resolution of the Minister of the Interior.

4. Their entry may be prohibited under the international conventions to which Spain is a Party, except when an exception is considered necessary on humanitarian grounds or in the national interest."

On the operational and national level, individuals appearing on the above-mentioned lists are found in the working files of the General Information Office, under the Directorate-General of Police of the Ministry of the Interior, and the Consulates of Spain under the Ministry of Foreign Affairs.

Further, under the European Union framework the implementation of joint measures is being studied to prevent the entry of these individuals into the Schengen Area. To this effect, 38 of the 212 individuals included on the United Nations list have for the moment been included in the Schengen Information System (SIS).

(c) "Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities."

The necessarily brief summary of the regime applicable to external trade in such materiel clearly reflects the difficulty in bypassing the controls imposed by Security Council resolution 1390 (2002).

Weapons and technology (including technical advice, assistance or training) is understood as materials listed in Annex I of Royal Decree 491/1998, approving the regulations on external trade in defence and dual-use materials, which subjects to controls erga omnes exports of the arms and technologies indicated, requiring administrative authorization to remove the merchandise from customs depots and free trade zones and depots.

Furthermore, they must be listed in the Special Registry of Exporters of defence materiel and dual-use items and the request must be accompanied by documentation concerning the use and the end user of the merchandise: a Certificate of Final Destination which should be signed by the authorities of the destination country of the merchandise and an International Import Certificate or a Declaration of Final Destination from the authorities of the receiving country. These documents are required to confirm that the merchandise will not be used in a way different than described in the licence.

The criteria for authorizing or denying permission to export are specified in articles 6 and 9 of the Regulations, and the following should be emphasized: the general interests of national defence and State foreign policy, international commitments entered into by Spain and guidelines agreed within the European Union, in particular the criteria approved at the meetings of the European Council held in Luxembourg in June 1991 and in Lisbon in 1992 concerning the export of conventional weapons. Recently, those criteria have been expanded through the adoption of a code of conduct on arms exports.

Therefore, weapons subject to controls erga omnes are those included in the Report on Defence Materiel, which includes the Munitions List of the Wassenaar Arrangement. Technical advice, assistance or training subject to controls is that included in the technology listed in the related report as published.

United Nations S/AC.37/2002/45

Security Council

Distr.: General
1 May 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 30 April 2002 from the Permanent Mission of Namibia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Namibia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and with reference to the latter's note dated 7 March 2002 on Security Council resolution 1390 (2002) on sanctions against Al-Qaida and the Taliban, has the honour to forward the response of the Government of the Republic of Namibia.

02-36291 (E) 170502

Annex to the note verbale dated 30 April 2002 from the Permanent Mission of Namibia to the United Nations addressed to the Chairman of the Committee

The Ministry of Foreign Affairs, Information and Broadcasting of the Republic of Namibia presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to refer to resolution 1390 (2002) and inform that, the following measures has been taken by the Government of the Republic of Namibia in efforts to implement the above-mentioned resolution:

- In respect to paragraph 2 (a) of the resolution, the information at the disposal of the Government, to date, shows that in Namibia there are no funds and other financial assets or economic resources or funds derived from property owned or controlled, directly or indirectly by individuals, groups and entities mentioned in the said resolution. However, all financial and banking institutions in the country have been instructed/requested to identify, if any, funds and other financial assets or economic resources of Osama bin Laden members of the Al-Qaida organisation and the Taliban and other individuals, groups. undertakings and entities associated with them, with a view of freezing them:

- The Government in accordance with the country's existing legislation has all personnel at border points/entries under instructions to prevent entry into or transit through the Republic of Namibia by a-fore mentioned individuals/entities and groups; and

The Ministry has further the honour to inform the Chairman of the Committee that information contained in this document should be considered and read in conjunction with document No. S/2001/1305 submitted to the Security Council on 21 December 2001 by the Charge d' Affaires a.i. of the Permanent Mission of the Republic of Namibia to the United Nations addressed to the Chairman of the Counter-terrorism Committee in response to Resolution 1373 (2001).

United Nations S/AC.37/2002/46

Security Council

Distr.: General
6 May 2002
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 3 May 2002 from the Permanent Mission of Mexico to the United Nations addressed to the secretariat of the Committee

The Permanent Mission of Mexico to the United Nations presents its compliments to the United Nations Department of Political Affairs (secretariat of the Security Council Committee established pursuant to resolution 1267 (1999)) and has the honour to report the action taken by the Government of Mexico in accordance with paragraph 6 of Security Council resolution 1390 (2002).

(a) Precautionary measures have been taken to intensify the monitoring of migration flows without violating the human rights of foreigners;

(b) A review mechanism has been established at points of entry, both by land and by air, into Mexico, entailing a tightening of inspections in corridors, waiting rooms and airline counters and reviews of passenger lists;

(c) Additional information has been provided to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) concerning the financial embargo imposed on Usama bin Laden, Al-Qaida, the Taliban and associated persons and entities in the report submitted by Mexico on 21 December 2001, pursuant to paragraph 6 of resolution 1373 (2001).

02-36897 (E) 070502 070502

United Nations S/AC.37/2002/47

Security Council

Distr.: General
9 May 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 9 May 2002 from the Permanent Mission of India to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of India to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to forward India's report in accordance with paragraph 6 of resolution 1390 (2002) (see annex).

02-37645 (E) 130502

Annex to the note verbale dated 9 May 2002 from the Permanent Mission of India to the United Nations addressed to the Chairman of the Committee

Report submitted in compliance with Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002)

1. India has been supportive of Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

2. India remains committed to meeting its obligations under resolution 1390 (2002), specifically with regard to the measures outlined in paragraphs 2, 6 and 8. The Government of India has taken all necessary measures to bring the resolution to the attention of the concerned authorities, instructing them to take all necessary administrative action to implement resolution 1390 (2002).

3. According to the information received from various authorities:

(i) There is no relationship between the Government of India and Osama bin Laden, the Taliban, Al-Qaida or any individuals, groups, undertakings of entities associated with them;

(ii) There are no known accounts or financial assets of these individuals and groups in India.

4. The Government of India has provided detailed information on the regulations it has in place to prevent the entry into, transit through and free movement of terrorists in its territories in its national report (see S/2001/1278) submitted in compliance with Security Council resolution 1373 (2001).

5. Any new information that may come to light will be brought to the attention of the Chairman of the Security Council sanctions Committee established pursuant to resolution 1267 (1999) along with information with regard to action taken by India in this regard.

United Nations S/AC.37/2002/48

Security Council

Distr.: General
10 May 2002
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 8 May 2002 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Tunisia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan and, with reference to Security Council resolution 1390 (2002), has the honour to transmit to him the report of Tunisia on that question.

Annex to the note verbale dated 8 May 2002 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

[Original: Arabic]

Report of Tunisia on the implementation of Security Council resolution 1390 (2002) of 16 January 2002

Tunisia's persistent desire to fight terrorism is affirmed once again through its total commitment to the provisions of Security Council resolution 1390 (2002) of 16 January 2002 requiring States to combat the terrorist activities carried on by Osama Bin Laden, the al-Qa'idah organization, the Taliban and entities associated with them.

Tunisia's desire to keep up with international efforts to combat terrorism is manifest in its being a party to all international and regional conventions on counter-terrorism. Indeed, it recently acceded to the International Convention for the Suppression of Terrorist Bombings (Act No. 17 (2002) of 14 February 2002) and began the procedure for the ratification of the International Convention for the Suppression of the Financing of Terrorism, which it had signed on 2 November 2001, and of the United Nations Convention against Transnational Organized Crime, signed by Tunisia on 14 December 2000. Recently it also ratified the Convention of the Organization of the Islamic Conference on Combating International Terrorism (Act No. 36 (2002) of 1 April 2002).

The following are measures adopted by the Tunisian authorities in compliance with the requirements of Security Council resolution 1390 (2002):

The freezing, pursuant to paragraph 2 (a) of resolution 1390 (2002), of the assets of entities and individuals involved in terrorist activities

In addition to various legal provisions enacted since the beginning of the 1990s in the field of prevention and suppression of terrorism (see the report submitted by Tunisia in the context of Security Council resolution 1373 (2001)), Tunisia is preparing to adopt a comprehensive anti-terrorism law which was examined by the Cabinet on 9 January 2002 and has been sent to the National Assembly. The bill, which concerns the suppression of terrorist offences and the fight against international terrorism, embodies Tunisia's comprehensive view on how to deal with terrorism and cooperate internationally in order to combat it. The bill is also aimed at achieving greater effectiveness in the fight against terrorism, be it in the area of prevention or in that of prosecution and punishment, while respecting the fundamental guarantees established for accused persons.

It should be noted that the bill is in accord with international trends, containing provisions for the freezing of funds and other financial assets or economic resources of perpetrators of terrorist offences. Those provisions grant the authorities the power to seize movable and real property and funds belonging to persons suspected of having committed a terrorist offence and to determine the manner of disposal thereof throughout the duration of the case. Furthermore, in the event of conviction for a terrorist offence, the assets derived from the crime must be sequestered and the

acquisitions of the convicted person, including movable and real property, funds and other assets, confiscated.

The bill further provides for a number of mechanisms to permit the achievement of that objective, making it a criminal offence, for example, to accept deposits under a borrowed name and making it a duty for any person to report to the authorities any information that has come to his attention concerning activities or transactions that may be related to, or persons who have committed, such offences.

It should be mentioned that some of those mechanisms reinforce the current status of national legislation on banking activity: Tunisian law, for example, does not recognize secret or numbered accounts, which means that bank accounts include all particulars relating to the depositor.

Pending the promulgation of the law on terrorist offences, it has been possible, pursuant to Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002), to adopt the necessary measures on the freezing of the funds and other financial assets or economic resources of the entities and persons targeted by those resolutions.

In this connection, all the banks in Tunisia have been informed of the above-mentioned Security Council resolutions and provided with the list of entities and persons to whom the measures in question relate, which was prepared by the Security Council Committee established pursuant to resolutions 1267 (1999) (Afghanistan Sanctions Committee). The banks will also be provided with any updated list issued and distributed by that Committee. The same steps have been taken by the Financial Market Council in respect of stockbrokers.

The banks have also been requested to take the necessary steps to freeze funds, financial assets and resources in their possession that belong to such persons and entities and to notify the designated authorities whenever they take any steps of that nature.

In addition, the list in question is on hand with the competent offices of the Central Bank of Tunisia, which conducts the necessary investigations with a view to the adoption of the measures required by the Security Council resolutions.

It should be noted that the investigations conducted by those institutions to date have not revealed anything pointing to the existence of any funds, financial assets or resources on hand in the Tunisian banking system or with stockbrokers that might belong to the persons or entities identified in the list.

Measures relating to internal security and combating terrorism

With regard to compliance with paragraph 2 (b) of Security Council resolution 1390 (2002), the security organs are responsible for taking the requisite specific enforcement measures for preventing the entry into or transit through our country of persons affiliated with the al-Qa'idah organization, the Taliban and groups, individuals and entities associated with them, especially in respect of all the means afforded to the competent security departments, in particular border security, for ascertaining their identities, whether disseminated internationally, within the framework of cooperation with the relevant regional bodies or through bilateral cooperation.

These competent security bodies are constantly at work in various operational and field activities aimed at preventing terrorism and ensuring that terrorists do not evade prosecution for their criminal activities.

Tunisia is also desirous of intensifying the exchange of information with the competent structures on the movements and activities of suspected individuals and tightening land border controls so as to prevent any infiltration of suspected elements. This should be achieved through coordination among the competent departments; the securing and monitoring of the open desert; the strengthening of the structures specialized in fighting terrorism; the tightening of arms and ammunition security procedures in barracks, in the field and during transport so that weapons do not fall into the hands of terrorists; the conducting of security investigations and studies of the appointment of persons; continued training of units for fighting armed elements; and participation in regional and international meetings and symposia on combating the crime of terrorism, organized crime and transnational crime.

Concerning paragraph 8 of Security Council resolution 1390 (2002), with respect to prosecution of terrorist elements involved in extremist activities:

- With regard to 77 Tunisians whose membership in terrorist organizations, including al-Qa'idah, has been substantiated, border measures have been adopted for their arrest and arraignment. In addition, special and definite warrants for their arrest have been issued in connection with them pursuant to letters rogatory, as they are the accused in case No. 89464 of 27 December 2001, which is still in progress before the court of first instance of Tunis, the charge being "participation in a collective scheme aimed at causing harm to persons and property for the purpose of intimidating and causing terror, affiliation with a criminal conspiracy for the purpose of preparing for attacks on persons and property and participation therein."

A border measure has been instituted to prevent the entry into or transit through Tunisian territory of all the persons mentioned in the new United Nations list dated 14 March 2002 and including 212 persons. The Tunisian terrorist Shafiq Ayadi, whose name appears on the list, was the subject of an earlier border measure ordering his arrest and arraignment due to the fact that he is wanted by the justice system for his involvement in a case of terrorism involving "placing himself, in time of peace, under a terrorist organization operating abroad and belonging to an unlicensed association". A judgment in absentia was handed down against him on 20 June 1995 by the Permanent Military Tribunal in Tunis, condemning him to 10 years' imprisonment.

Concerning the requirements of paragraph 2 (c) of Security Council resolution 1390 (2002), it should be mentioned that Act No. 33 (1969) of 12 June 1969 on importing, possessing, carrying and trading in arms provides for effective supervision of the manufacture, import, circulation, sale, transport, possession and bearing of arms.

Within the same context, Act No. 63 (1996) of 15 July 1996 on the control of the conditions of the manufacture, export, import, transport, storage and use of and trade in explosives intended for civilian use, forbids the use of explosives for purposes other than those defined by law, thus making it possible to limit misuse to the greatest possible extent.

Concerning paragraph 8 of Security Council resolution 1390 (2002), Tunisia has always been committed to preventing the provision of any technical advice, assistance or training relating in any way to military or paramilitary organizations connected with terrorism.

Also in connection with the requirements of paragraph 8 of Security Council resolution 1390 (2002), immediately after the explosion that took place in Jerba on 11 April 2002, the competent judicial and police authorities immediately went to the site and in due course opened a judicial investigation in order to determine the causes of the incident, the persons responsible for it and their possible affiliation with terrorist organizations. The Tunisian judicial and police authorities are still continuing the investigation, which was undertaken in cooperation and coordination with foreign, primarily German and French, police forces, after it became apparent that the driver of the truck involved in the incident normally lived with his family in Lyons, France. No clue is being ignored in the continued investigation of this event, including the suspect's connections with elements resident in Germany.

Judicial measures adopted in the context of the fight against terrorism

In compliance with the requirements of paragraph 8 of Security Council resolution 1390 (2002), the forensic authorities, in coordination with the security authorities, are desirous of taking legal steps in a timely manner for the investigation and surveillance of anyone concerning whom it comes to their attention that he is involved, closely or remotely, in terrorist organizations or activities, especially the al-Qa'idah and Taliban organizations or persons or entities affiliated with them. Tunisians abroad, moreover, are not excepted from such observation.

In this connection, the judicial authorities, in coordination with the security authorities, learned of the involvement of a group of Tunisians in fundamentalist terrorist organizations operating abroad and aimed at committing attacks both within Tunisian territory and outside it.

The judicial authorities undertook in due course to open a judicial investigation against that group (which includes Tariq Al-Ma'rufi and Nizar Al-Tarabulsi, who were arrested in Belgium, and Muhammad bin Belgacem Awadi and Riyadh Jelassi, arrested in Milan) and anyone found in the investigation to be guilty of participating in a collective scheme aimed at causing harm to persons and property for the purpose of intimidating and causing terror, affiliation with a criminal conspiracy for the purpose of preparing for attacks on persons and property and participation therein, in accordance with Tunisian penal law.

The investigative proceeding has been officially instituted and the examining magistrate has granted powers to the security authorities to conduct the necessary investigations, ascertaining the parties involved and the activity, role and affiliation of each. Those investigations are still in progress.

Legal action was taken against 34 terrorists by the Permanent Military Tribunal in Tunis in case No. 12101 of 20 January 2002, three of whom, being present, were given sentences ranging from 8 to 10 years of imprisonment and 5 years' administrative supervision. The remaining 31, who were abroad, were each sentenced in absentia to 20 years' imprisonment and 5 years' administrative supervision. All the accused were deprived of their civil rights for "placing themselves, in time of peace, at the disposal of a foreign organization and instigation

thereto with the intention of causing harm to persons and property and seeking to instigate hatred and religious fanaticism". In addition, the property of three of them has been confiscated pursuant to chapter 132, paragraph 2, of the Code of Military Procedure and Penalties and paragraph 52 bis of the Penal Code.

In addition, numerous and varied measures and procedures have been instituted in the past with a view to preventing and fighting terrorism. Tunisia reaffirms once again the need to promote further international cooperation in this area through compliance with requests for the extradition of terrorists and the strengthening of judicial and police cooperation with respect to them.

In this regard it should be pointed out that since the 1990s Tunisia has submitted to a number of States, in particular European States, requests for the extradition of Tunisians involved in cases of terrorism, but those requests have not been met. After the events of 11 September 2001 it became evident that a number of the persons in question had been involved in acts of the same nature and that others were affiliated with the al-Qa'idah organization and the Taliban.

United Nations S/AC.37/2002/49

Security Council

Distr.: General
14 May 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 14 May 2002 from the Permanent Mission of Ireland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Ireland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to paragraph 6 of Security Council resolution 1390 (2002), has the honour to communicate the following information relating to the implementation of resolution 1390 (2002).

These and other Security Council resolutions are implemented in Ireland pursuant to relevant regulations of the European Community which are directly applicable in Ireland. Work is proceeding on the preparation of a regulation of the European Community to implement the measures set out in resolution 1390 (2002). Regulation (EC) 467/2001 will remain in force until this new regulation is adopted. Information with regard to national regulations adopted pursuant to Regulation (EC) 467/2001 is contained in the report of Ireland submitted to the Counter-Terrorism Committee on 21 December 2001 (S/2001/1252, annex).

Upon adoption of the regulation of the European Community implementing resolution 1390 (2002), Ireland will submit a full report to the Security Council Committee established pursuant to resolution 1267 (1999).